HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:1303 OF 2007

Dated:07.08.2007

-

Between:

K.V. Ramana Rao

..Petitioner

And

1.The Senior Divisional Personnel Officer,
South Central Railway, Vijayawada,
Krishna District and others.

..Respondents.

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&

HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:1303 OF 2007

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to call for the records pertaining to the order of the Central Administrative Tribunal, Hyderabad passed in O.A.No:740 of 2006, dated 04.01.2007 and to set aside the same.

The petitioner herein is the applicant before the tribunal. He filed the above O.A. seeking to call for the records pertaining to the orders of the Senior Divisional Personnel Officer transferring the applicant from Vijayawada Division to Nanded Division on administrative grounds. It is the case of the applicant that while he was working as Travelling Ticket Inspector on 5.12.2005, a vigilance trap was conducted, as a result of which, a charge sheet was issued on 8.4.2006.

It is his further case that on 30.12.2005, the applicant reported to the Chief Ticket Inspector and he was served with suspension memo dated 29.12.2005. While so, he fell sick due to heart problem during the period from 22.2.2006 and 7.5.2006 and reported to duty on 8.5.2006 to the Chief Ticket Inspector, Vijayawada, who in turn directed the applicant to go to Railway Hospital, Vijayawada and from 8.5.2006 to 6.7.2006 he was under treatment, during which period, he was discharged from sick list for non-attendance from 7.7.2006 to 14.7.2006. Then, the applicant submitted a representation on 18.8.2006 explaining the circumstances relating to his sickness and transfer orders and relieving orders received on 8.8.2006.

The tribunal following the full Bench Judgment of CAT in case of *Shri Ganesh Din and others Vs. Union of India and Others, dated 7.1.2005 (2005(2) ATJ 209)* wherein it is held that so far as Rule 226 of the Indian Railway Establishment is concerned, the same does not bar the respondents-authorities from transferring non-gazetted staff from

one division to another division inasmuch as the said rule does not categorically prohibit such transfer although, it provides that such transfer shall not ordinarily be made and even otherwise, the circular issued by the Railway Board on 2nd November, 1998 provides that inter-railway transfer of ticket checking staff detected to be indulged in malpractices is also possible and permissible on inter divisional basis, dismissed the O.A. Having aggrieved by the same, the present writ petition is preferred by the applicant.

Heard the learned counsel for the petitioner and the learned Counsel appearing for the respondents.

It is the contention of the learned counsel for the petitioner-applicant that the transfer in question during the course of his suspension to another division along with the post is illegal and therefore, the tribunal is not justified in passing the order impugned and therefore, the same is liable to be set aside.

It is contended by the learned Counsel appearing for the respondents-authorities that even Nanded, to which the applicant has been transferred, comes within the zone of south central railways and therefore, the question of transferring him beyond the division, does not arise and therefore, the tribunal is justified in sustaining the order passed by the authorities.

In view of the circular issued by the Railway Board as observed by the tribunal and in view of the fact that Nanded, to which place, the applicant has been transferred, comes within the zone of south central railways and in view of the fact that due to the disciplinary proceedings, the transfer in question has been effected and apart from that, in view of the fact that transfer of an employee is within the domain of the executive powers and in the absence of any malafides as to the transfer, we have no hesitation to hold that the tribunal is justified in passing the order impugned. Hence, we see no merits in this writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

However, the petitioner is at liberty to make a representation seeking transfer to any of the adjoining divisions, within a period of two seeks from today, if so desires and on such application, the same shall be disposed of within a period of four weeks thereafter.

_____

Justice T. Meena Kumari

_____

Justice G. Chandraiah

Date: 7th August, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:1303 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

07/08/2007